IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc App. No. 4443 of 2005

WITH

Contempt Petition No. 112 of 2004

Madan Mohan Mamgain
S/o Shri Gunanand
R/o Labour Quarter No.
Type-1, 3/27, Modi Colony
Chauras, District Tehri Garhwal ……. Petitioner

Vs.

1. K.C. Gupta
Chief Engineer
Uttaranchal Vidyut Nigam Ltd
120 Haridwar Road, Dehradun.
2. G.S. Kunwar
Executive Engineer
Electricity Distribution Division
Uttaranchal Power Corporation Ltd
Srinagar, Garhwal ……Respondents.

Shri Subhash Upadhyay, learned counsel for the petitioner.
Shri Narayan Singh Negi, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

This is a contempt petition, moved under Section 12 of the Court of Contempt Act, 1971, alleging that the respondents have failed to comply with the orders of this Court, passed on 21.10.2003, in writ petition No. 170 of 2001 (S/S).

Heard learned counsel for the parties.

The operative portion of the aforesaid order reads as under:-

"*Consequently the writ petition succeeds. Order dated 08.12.2000, passed by respondent No. 2 is quashed. The petitioner shall get his salary and all other service benefits according to rules. No order as to costs.*"

Learned counsel for the applicant, admitted that in pursuance of said order, the petitioner was taken back into the service. However, his grievance is that he has not been paid full salary, as directed by the Court. In reply to the said allegations in the contempt petition, the respondent no. 2 has filed his counter affidavit in which it has been stated that the petitioner remained absent from duty without any leave application for different periods. There is no direction of the Court to pay the salary for the period for which the petitioner has not worked or remained absent without any leave application. Learned counsel for the petitioner argued that the petitioner was in wheel chair, as he was injured in an accident. The petitioner could have sought medical leave for such period for which he was unable to attend the office. It is not the case of the petitioner that he applied leave for the period, he could not attend the office (After the aforesaid writ petition was decided, it is admitted fact that now the petitioner has died and his widow has been provided job under dying in harness rules).

In the circumstances, it cannot be said if there is intentional disobedience of the Court's order on the part of the respondents. Therefore, the Contempt Petition is dismissed.

(Prafulla C. Pant, J.)

Dt: 20.07.2005

Sweta